

### Remarks

Applicants thank the Examiner for the careful review and consideration of the application. Claims 1-7, 9, 11-20, 22-26, and 28-29 are currently pending. Claims 8, 10, 27, and 30-42 have been subjected to a restriction requirement and are withdrawn from consideration.

Various amendments to the claims have been presented above. All pending independent claims, namely claims 1, 5, and 28, have been amended to incorporate limitations of dependent claims 2, 3, and 23. Claims 2, 3, 6, 7, 17, 22, and 23 have been cancelled in view of those amendments. Withdrawn independent claims 8, 34, 35, 39, and 42 have been amended to incorporate similar limitations. The amendments to the pending dependent claims have been made generally to conform them to the amended independent claims and/or to revise dependency. Newly presented claims 43-49 all depend on pending claims and contain limitations similar in scope to limitation present in pending claims.

In his Office Action, the Examiner rejected claims 1-4, 9, 11-20, 23-25, and 28-29 under 35 U.S.C. § 103 as obvious over U.S. Pat. 4,478,858 to J. Baird *et al.* ("Baird '858") in view of G.B. Pat. No. 2,240,758 A to K. O'Connell ("O'Connell '758") and French Pat. 2,422,562 to C. Planchard ("Planchard '562").

Claims 5-7 were rejected under 35 U.S.C. § 103 as obvious over Baird '858 in view of O'Connell '758 and Planchard '562 further in view of U.S. Published Appl. 2005/0086910 A1 of P. Chambers *et al.* ("Chambers '910").

Claim 26 was rejected under 35 U.S.C. § 103 as obvious over Baird '858 in view of O'Connell '758 and Planchard '562 further in view of U.S. Pat. 5,157,902 to H. Hatakeyama ("Hatakeyama '902").

It is believed, however, that none of the prior art, either alone or in combination, discloses or would have suggested the subject claims as amended. Those rejections, therefore, are traversed.

The Examiner also indicated that claims 17 and 22 would be objected to under 37 C.F.R. § 1.75 as substantial duplicates of, respectively, claims 3 and 4 in the event the latter claims were found to be allowable. Claims 3, 4, 17, and 22, however, have been cancelled, and therefore, any possible issue regarding those claims is moot.

Before addressing the Examiner's rejections, it should be noted that since completion of the subject Office Action, Applicants received an international search report conducted by the European Patent Office in respect to an international application based on the subject application. Applicants are submitting herewith an Information Disclosure Statement calling those search results to the attention of the Examiner. Applicants are also submitting a copy of the International Search Report and a copy of the published PCT application. It is noted, however, that none of the claims which are the subject of the International Search Report correspond in scope to the claims currently before the Examiner.

Turning now to the prior art rejections raised by the Examiner, despite the many different media available to advertisers, there is a continuing need to develop effective, cost efficient methods of advertising. The cost of direct advertising, in particular, can be substantial and typically includes the generation of a mailing list and postage or other delivery expenses. Moreover, a substantial portion if not the majority of all advertising messages are never viewed by their intended audience for one reason or another. Many consumers receiving the advertisement may have no interest in the advertised good or service, or they may not be able to afford it. There also is a general clutter of advertisements that makes it difficult for a particular

ad to capture the attention of consumers, especially if the consumer is distracted or otherwise occupied when the opportunity for viewing the ad arises.

Many products, such as food and consumer household products, are promoted extensively using manufacturer coupons. Such coupons typically offer a discount on specifically identified products and are distributed to consumers through various media such as newspapers and direct mailings. So-called “cross ruffing” or “bounce back” offers also have been used to deliver coupons to consumers.

Cross-ruffing typically involves printing coupons on, or removably affixing coupons to packaging for products. It has a significant cost advantage over other forms of direct advertising because the distribution of such messages is in a sense nearly cost free. That is, other than the cost of printing or otherwise preparing the advertising message itself, there is little incremental cost in disseminating cross ruffed advertising messages over and above the cost of producing and distributing the carrier products themselves.

Cross-ruffing has become common on certain products distributed through certain distribution channels, such as breakfast cereals sold in grocery stores. Nevertheless, and despite the advantages of presenting an advertising message directly to a target audience and its significant cost advantage over other forms of direct advertising, the types of products and packaging utilized to carry cross ruffed and bounce back advertising messages have been limited. It is believed such limited use in substantial part has been the result of the failure by those in the art to appreciate the opportunities created by using particular products and particular distribution channels.

Accordingly, the subject invention is directed to improved methods for disseminating manufacturer coupons to consumers. In contrast to known methods, the novel methods utilize

“single-serve” food products to distribute manufacturer coupons through food service outlets, such as restaurants, concessions, institutions, and the like. Such single-serve products can include a variety of condiments, such as sugar, sugar substitutes, ketchup, relish, and sauces which are typically provided free of charge by restaurants. Restaurant patrons usually will have ample opportunity and time to view and detach coupons attached to single-serve packets while they are waiting for their food or eating it.

To date, however, single-serve products have not been used or used effectively as vehicles to deliver advertising messages, especially in food service establishments. Typically any advertising messages are limited to relatively simple branding messages and such messages usually pertain to the packaged product. *A fortiori*, manufacturer coupons have not been delivered to consumers by associating them with single-serve food packets distributed through restaurants and the like.

More specifically, claims 1 and 28 are directed to methods of distributing manufacturer coupons that utilize single-serve food products. Single-serve food products are packed in pouch containers that have separable manufacturer coupons. The single-serve food packs then are distributed to consumer food service outlets, such as restaurants. Claim 1 is set forth below.

1. A method for disseminating *manufacturer coupons* to consumers, which method comprises:

(a) packaging a product in a *pouch container having a manufacturer coupon associated therewith* which may be viewed by a consumer, wherein *said product is a single-serve food product* and wherein *said manufacturer coupon* is redeemable by a consumer of said product and *includes machine readable indicia* associated therewith to facilitate automated processing of said coupon;

(b) *distributing said packaged product with said manufacturer coupon to a consumer food service outlet*; and

(c) distributing said packaged product with said manufacturer coupon to consumers associated with said consumer food service outlets, thereby disseminating said manufacturer coupon to said consumers;

(d) wherein said pouch container comprises one or more flexible imprintable substrate sheets; wherein said substrate sheets comprise collectively:

(i) one or more pouch sections defining a sealed volume accommodating a product therein, said pouch sections being provided on one or more of said substrate sheets; and

(ii) a message section providing a substrate on which said manufacturer coupon is imprinted, said message section being provided on one of said substrate sheets and being connected to at least one of said pouch sections;

(iii) wherein said message section is separable from said pouch sections without compromising the integrity of said sealed volume, whereby said manufacturer coupon may be removed from said sealed volume and redeemed by a consumer.

(emphasis added).

Claim 5 is further directed to methods of distributing manufacturing coupons to targeted consumers. Those methods, like the methods set forth in claims 1 and 28, utilize single-serve food products packed in pouch containers that have separable manufacturer coupons. The single-serve food packs then are distributed to consumer food service outlets. The packs, however, are distributed to restaurants and other food service outlets that are associated with the target consumer group. More specifically, the single-serve food packs are packaged in cartons that have machine readable indicia uniquely associated with the particular manufacturer coupon. Thus, the shipment of the manufacturer coupon to restaurants associated with targeted consumers is facilitated. Claim 5 is set forth below.

5. A method for disseminating *manufacturer coupons* to a target consumer group, which method comprises:

(a) packaging a product in *a pouch container having associated therewith a manufacturer coupon* pertaining to products or services other than said packaged product, wherein *said packaged product is a single-serve food product*, wherein *said manufacturer coupon* is redeemable by a consumer of said product and *includes machine readable indicia* associated therewith to facilitate automated processing of said coupon, and said manufacturer coupon is intended for a target consumer group;

(b) packaging said packaged product in a shipping carton having a machine readable indicator uniquely associated with said manufacturer coupon;

(c) reading said indicator and in response thereto *shipping said carton to consumer food service outlets associated with said target consumer group*, whereby said packaged single-serve food product may be distributed to consumers thereby disseminating said manufacturer coupon.

(emphasis added).

None of the cited references disclose such limitations, nor would such limitations have been disclosed by any combination of the cited references. Baird '858 is the primary reference relied upon by the Examiner. It, however, is only marginally pertinent to the subject claims. It generally discloses 3-sided pouch containers and methods for their production. It does not disclose in any respect the use of pouch containers as a vehicle for delivering coupons or other advertising messages, nor do the Baird pouch containers have any detachable advertising media.

O'Connell '758 is even less pertinent, as it does not even relate to pouch containers. It discloses bags which are used in connection with the sale of bulk products, such as chocolates, in food retail outlets such as grocery stores. *See* p. 1, lns 8-18; p. 3, ln 29 to p. 4, ln 6. The bags have detachable coupons. There is, however, no disclosure that such detachable coupons could or should be affixed to pouch containers for single-serve food product, or that single-serve packs with manufacturer coupons should be distributed through restaurants and the like.

Since receiving the Examiner's Office Action, applicants have had the Planchard '562 reference translated. A copy of that translation is submitted herewith. It may be seen, therefore, that Planchard '562 discloses 4-sided pouch containers or "dose bags" with detachable "flaps" which may be used as a "price-reduction coupon for a subsequent purchase." *See, e.g.*, p. 2, ¶ 4. The pouches are used to package cleaning and toiletry products in the form of liquids, pastes, or solids and paper towels impregnated with toilet water, stain remover, cleaning product, and make-up remover. *See* p. 3, ¶ 7. Planchard '562, however, does not disclose that the

manufacturer coupons should include machine readable indicia, that the pouches should be used to package single-serve food products, or that such packets should be distributed through consumer food service outlets.

Chambers '910 discloses a multi-pack package for single serve food products. It is particularly adapted for "larger or jumbo-sized" packaged articles, such as snack chips and pretzels packaged in pouch containers, which encourage "bulk" purchases. *See, e.g.*, ¶¶ 4, 7, 44-46. The multi-pack package includes a bar code that identifies both "the product and the vendor that sells the product." *See* ¶ 45. Neither the packs themselves, nor the multi-pack package includes a manufacturer coupon. The bar code is on the multi-pack package, not on a manufacturer coupon, and the bar code is not uniquely associated with a manufacturer coupon. Moreover, while there is no express discussion of the channels through which the multi-packs should be distributed, they clearly appear to contemplate distribution through food retail outlets such as grocery stores. *See, e.g.*, ¶¶ 2-11, 44-46, and 57. In any event, there is no suggestion that the multi-pack should be distributed in consumer food service outlets or to food service outlets associated with a targeted consumer group.

Hatakeyama '902 also is marginally relevant to the subject claims. It discloses methods for producing pouch containers. It does not disclose in any respect the use of pouch containers as a vehicle for delivering coupons or other advertising messages, nor do the Baird pouch containers have any detachable advertising media.

Wilkman '531, cited in the recent International Search Report, relates to reduced cost impregnated wipes in general and to methods of directly distributing and tracking coupons and other advertising to a target market. *Wilkman '531*, at col. 1, lns 6-9. The wipes may be impregnated with various formularies, such as hand cleaner, baby wipe formulations, suntan

lotions and insect repellants. *Wilkman '531*, at col. 4, lns 9-37. The cost of producing the wipes may be subsidized, and additional revenue generated by including coupons or other advertisements for other companies' products as part of the packaging. *Wilkman '531*, at col. 4, lns 52-57. In particular, the packaging may include a coupon imprinted on a peelable second sheet affixed to a pouch container. *Wilkman '531*, at col. 9, ln 34, to col. 10, ln 12; Figure 15. An advertiser's coupons may be directed to specific target consumers by placing them on wipe containers destined for particular retailers. *Wilkman '531*, at col. 5, lns 34-62. The manufacturer coupons may include a scannable bar code. *Wilkman '531*, at col. 6, lns 35-40. Wilkman does not disclose the specific type of consumer outlets through which its wipes and coupons should be distributed.

Other than impregnated wipes, Wilkman '531 does not disclose any other products which may be used to cross-ruff manufacturer coupons. It definitely does not disclose or suggest the use of single-serve food products as vehicles for distributing its manufacturer coupons and, *a fortiori*, that manufacturer coupons could be more effectively delivered by distributing them through consumer food service outlets.

Applicants do not contend that any single feature of the subject claims, in and of itself, is novel. Distributing single-serve food pouch containers through restaurants and other food service outlets was known, and indeed, that is the primary purpose for which such products are manufactured. Likewise, bar-coded manufacturer coupons are conventional, as is using third party products to cross-ruff manufacturer coupons. Pouch containers having manufacturer coupons are also known. What has not been appreciated prior to applicant's invention, however, is that a heretofore unknown combination of such known features results in a uniquely effective method for distributing manufacturer coupons.



Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, in the absence of some teaching or suggestion in the prior art which would support making the combination. *Kahn v. General Motors Corp.*, 135 F.3d 1472, 1480 (Fed. Cir. 1998); *B.F. Goodrich Co. v. Aircraft Braking Systems Corp.*, 72 F.3d 1577, 1582 (Fed. Cir. 1996). Even the Wilkman '531 reference, which clearly appreciated that manufacturer coupons could be distributed through impregnated wipes, offers no suggestion as to other consumer products and consumer outlets which may be utilized for distributing manufacturer coupons. There is no indication that any workers in the art appreciated the unique opportunity to increase the effectiveness of manufacturing coupons that exist in consumer food service outlets and the condiments and other single serve products provided to their customers.

Finally, regarding the restriction requirement, it should be noted that claim 1 remains generic to withdrawn claims 10 and 30-42 as amended, which are directed to other species identified by the Examiner. Thus, even if the Examiner maintains his restriction requirement, those claims would be allowable in the event claim 1 is allowed.

### **Conclusion**

It is believed that all of the Examiner's objections and rejections either have been obviated or lack sufficient basis and should be withdrawn. All claims are in condition for allowance. Prompt and favorable reconsideration, therefore, is earnestly solicited.

The Examiner is invited to contact the undersigned attorney at (832) 656-3853 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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